



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Motorola, Inc.
File: B-232843
Date: November 16, 1988

DIGEST

Where firm would not be in line for award were its protest sustained, protest is dismissed since protester does not have the required direct interest in the contract award to be considered an interested party under General Accounting Office Bid Protest Regulations.

DECISION

Motorola, Inc. protests the award of a contract to Dailey-Wells Communications under invitation for bids (IFB) No. F41687-88-B-0012, issued by the Department of the Air Force, for the acquisition of portable radios. Motorola alleges that Dailey-Wells will not be able to provide a product which will meet the specifications of the IFB.

We dismiss the protest.

The IFB was issued on a brand name or equal basis; it provided that the required radios could be either the Motorola MT-1000 or the General Electric MPD or equal as defined by the salient characteristics set forth in the IFB.


Three bids were received at bid opening. Dailey-Wells submitted the low bid at \$81,108 and offered an "equal" product. General Electric submitted the second low bid at \$118,049.40 and offered its brand name product. Motorola offered its brand name item at a price of \$129,690.72. The Air Force determined that Dailey-Wells submitted a responsive bid and was a responsible bidder and therefore made award to that firm.

Under our Bid Protest Regulations, we will only consider a protest by an interested party, i.e., an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. 4 C.F.R. §§ 21.0(a), 21.1(a) (1988). A party is not an interested party to protest where it would

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not be in line for award were its protest sustained. See, e.g., Systems-Analytics Group Corp., B-229836, Apr. 12, 1988, 88-1 CPD ¶ 358. Here, the Air Force states that even if Motorola's protest were sustained, award would go to the second low bidder, General Electric, not to Motorola. In its initial protest, Motorola did not challenge the responsiveness of General Electric's bid, or General Electric's responsibility.^{1/} Consequently, Motorola is not in line for award and therefore not an interested party under our regulations to protest the award.

The protest is dismissed.


Ronald Berger
Associate General Counsel

^{1/} After receipt of the agency report in which the Air Force argued that Motorola was not an interested party because it was third low and that Motorola had not challenged the acceptability of the second low bid submitted by General Electric, Motorola alleged, for the first time, that General Electric had failed to acknowledge the two amendments that were issued. However, we have reviewed these amendments and find them to be totally immaterial; they would not affect the responsiveness of General Electric's bid. Thus, failure to acknowledge these amendments may be waived by the agency, and General Electric is still next in line for award.